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**L.S.F. Transportation, Inc. a/k/a L.S.F. Trucking, Inc. and International Brotherhood of Teamsters, Local 142, AFL-CIO.** Cases 13-CA-33256, 13-CA-33289, 13-CA-33374-2, 13-CA-33385, 13-CA-33417, 13-CA-33511, and 13-CA-33359.

September 26, 2002

## SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS LIEBMAN, COWEN, AND BARTLETT

The General Counsel seeks summary judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.

On March 27, 2000, the Board issued a Decision and Order<sup>1</sup> that, among other things, ordered the Respondent to make whole seven of its unit employees for any loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the Act. On March 11, 2002, the United States Court of Appeals for the Seventh Circuit entered its judgment enforcing the Board's Order in full.<sup>2</sup>

A controversy having arisen over the amount of backpay due the discriminatees, on April 18, 2002, the Regional Director issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.<sup>3</sup>

On May 29, 2002, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On June 6, 2002, the Board issued an Order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

<sup>1</sup> 330 NLRB 1054 (2000).

<sup>2</sup> 282 F.3d 972.

<sup>3</sup> By letter to the Region dated May 6, 2002, the Respondent's counsel advised that he had been directed by the Respondent's trustee in bankruptcy not to make any response or defense to the compliance specification. Although the Respondent is in bankruptcy, it is well established that the institution of bankruptcy proceedings does not deprive the Board of jurisdiction or authority to entertain and process an unfair labor practice case to its final disposition. See, e.g., *Cardinal Services*, 295 NLRB 933 fn. 2 (1989), and cases cited there. Board proceedings fall within the exception to the automatic stay provisions for proceedings by a governmental unit to enforce its police or regulatory powers. See *id.*, and cases cited therein.

## Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay and interest due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent of those amounts to the discriminatees, plus additional interest accrued on the amounts to the date of payment.<sup>4</sup>

## ORDER

The National Labor Relations Board orders that the Respondent, L.S.F. Transportation, Inc. a/k/a L.S.F. Trucking, Inc., Hammond, Indiana, its officers, agents, successors, and assigns, shall make whole the individuals named below by paying them the amounts following their names, plus interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and state laws:

Michael Dooley	\$ 1,406.00
Mark Hasse	20,303.00
Dennis Hill	67,206.00
Ronald Holland	9,132.00
John Kawa	22,736.00
Walter Michaels	67,042.00
William Owens	32,431.00
TOTAL:	220,256.00

Dated, Washington, D.C. September 26, 2002

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Wilma B. Liebman,	Member
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William B. Cowen,	Member
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Michael J. Bartlett,	Member
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<sup>4</sup> As set forth in the compliance specification, the Respondent's obligations under the Board's Order continue.